

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

**0.382 ACRES OF LAND, MORE OR LESS,
SITUATE IN STARR COUNTY, STATE OF
TEXAS; AND JESUS ALVAREZ, JR., ET
AL.,**

Defendants.

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CASE No.: 7:20-CV-329

MOTION TO FILE EXHIBITS UNDER SEAL

Defendant Jesus Alvarez Jr. files this motion seeking leave from the Court to file unredacted versions of the exhibits attached to his Motion Seeking Determination of Ownership and additional declarations signed by his five (5) siblings and co-Defendants in this action under seal. In support, Defendant shows the following:

1. The decision of access to documents is left to the sound discretion of the trial court and courts must balance the public's qualified common law right of access against the interests favoring nondisclosure. *S.E.C. v. Van Waeyenberhe*, 900 F.2d 845, 848 (5th Cir. 1993).
2. On May 27, 2021, Plaintiff and Defendant filed a Joint Status Update indicating that title is ripe for consideration by the Court. ECF Dkt. 44. Plaintiff filed an Amicus Brief Regarding Ownership of the Subject Property and ten (10) exhibits redacted to protect certain identifying information for the co-Defendants and other individuals. *See* ECF Dkt. Nos. 43, 43-1 through 43-10. Defendant Jesus Alvarez Jr. filed a Motion Seeking Determination of Ownership and three (3) exhibits also redacted to protect certain identifying information for Defendant and his siblings,

including his driver's license number, audit number, birth certificate number, and complete dates of birth. *See* ECF Dkt. Nos. 45, 45-1 through 45-3; *see also* FED. R. CIV. P. 5.2(a)(2) (requiring redaction of the month and day of individual dates of birth).

3. Courts in this circuit routinely permit redactions to protect against public disclosure of identifying information such as home addresses, dates of birth, unique identifying numbers assigned by government agencies, and family data. *See, e.g., Carnaby v. City of Houston*, Civil Action No. 4:08-cv-1366, 2008 WL 4546606, at *3 (S.D. Tex. Oct. 10, 2008) (permitting redaction of "employee's home address,...date of birth, family data..." and other identifying information); *Roque v. Harvel*, 1:17-CV-932-LY-SH, 2019 WL 5265292, at *9-*10 (W.D. Tex. Oct. 16, 2019) (permitting redaction of "[a]ny sensitive information" including law enforcement officer's "identification number"); *T.S. by and through P.O. v. Burke Foundation*, 1:19-cv-809-RP, 2019 WL 12251945, at *2 (W.D. Tex. Oct. 2, 2019) (broadly ordering redaction of "all personally identifying information" when making submission to the court).

4. The public has an interest in "know[ing] and understanding...the government's actions" with respect to border wall construction. *See Halloran v. Veterans Admin.*, 874 F.2d 315, 324 (5th Cir. 1989). Property descriptions, land surveys, and other exhibits lacking sensitive information have been filed in unredacted form in furtherance of this interest. The public has little or no interest in knowing the exact home addresses, dates of birth, driver's license numbers or other identifying information for ordinary landowners like Defendant and his siblings whom the Government has sued to take private property. Defendant respectfully submits that his privacy interests outweigh the public interest in having access to this information.

5. The filing of unredacted versions of Defendant's exhibits will permit the Court to review specific identifying information for Defendant and his siblings and facilitate a just decision regarding ownership of the subject property.

WHEREFORE, PREMISES CONSIDERED, Defendant Jesus Alvarez Jr. respectfully requests that this Court grant leave to file his the three (3) exhibits attached to his Motion Seeking Determination of Ownership and additional declarations of the five (5) co-Defendants in this action under seal.

Dated: May 28, 2021

Respectfully submitted,

TEXAS RIOGRANDE LEGAL AID, INC.

/s/ Peter McGraw

Peter McGraw

Attorney in Charge

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ATTORNEY FOR DEFENDANT
JESUS ALVAREZ JR.

CETIFICATE OF CONFERENCE

I hereby certify that on May 27th and 28th, 2021, I conferred with Chamealea Thou, Assistant to United States, regarding the filing of this motion and was informed that Plaintiff does not oppose the motion. I hereby certify that between May 17, 2021 and May 27, 2021, I discussed the redaction of identifying information and seeking permission to file exhibits under seal with each of Defendant Jesus Alvarez Jr.'s siblings and no individual indicated opposition.

/s/ Peter McGraw

Peter McGraw

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing document on Chanmealea Thou, Assistant U.S. Attorney and counsel for Plaintiff in this matter by filing the same with the court's electronic filing system on May 28, 2021. Furthermore, I hereby certify that I will serve a copy of the foregoing document on all other parties who appear in this action.

/s/ Peter McGraw
Peter McGraw